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MEDIATION: AN UNSUNG SUCCESS STORY IN SPECIAL EDUCATION CONFLICTS

February 21, 2012 by JoLynne Lyon



The law guarantees that all eligible children and youth with disabilities receive a free and appropriate education. But what happens when a parent disagrees with the school district in how their child's special education is provided?

Mediation is an unsung success story in special education conflict resolution. In the majority of the cases, mediation is a successful way to solve a disagreement between parents and school districts, said John Copenhaver, Director of the Center for Technical Assistance for Excellence in Special Education. TAASE is the Center for Persons with Disabilities' technical assistance division at Utah State University.

Mediation should be the first recourse when parents and school districts disagree about a child's special education. Either the parent or school can request it. From there, a neutral mediator provided by the State Department of Education can work to find a solution that is acceptable to both the school and the family.

State Education Agencies are required to have a list of qualified special education mediators that are available to school districts if they are requested. This is a free service to the parent and school district.

Mediation is a tool that often resolves problems that might otherwise take years to work its way through the court system in a civil suit or formal due process hearing. It is also the least expensive way to address an issue by far.

But if the mediation is unsuccessful, a parent who is still unsatisfied can file a State complaint or file for a due process hearing. The State has 60 days to investigate a complaint and submit findings and recommendations.

If parents file for a due process hearing, they can ask the school district for a filing form or get one from the State Department of Education. The State has 45 days to conduct a hearing and hand down findings and recommendations. The findings can be appealed and go to a higher court, which is by far the slowest-moving and most expensive place to solve a problem.

TAASE administers the Dispute Resolution in Special Education Consortium, which provides ongoing training and professional development for mediators, complaint investigators, due process hearing officers, State Education Agency staff and Lead Agency staff. Twelve states, including the Utah Department of Education, belong to the Consortium. For more information, visit the TAASE website.